IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09/04/2003

CORAM

THE HONOURABLE MR. JUSTICE P.D.DINAKARAN

W.P.No.1430 of 1997

R.Ramaraju .. Petitioner

-Vs-

1. The Revenue Divisional Officer
and Executive Magistrate
Dindigul.

2. The Tahsildar
Dindigul.

3. K.Ayyachami

4. V.Palanichamy .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issue of a writ of Certiorari as stated therein.

For Petitioner : Mr.Murugappan
for Mr.AR.L.Sundaresan

For Respondents : Mr.P.Chandrasekaran
1 & 2 Spl. Govt. Pleader for R1 & R2
For Respnodents : Mr.P.Jyothimani
3 & 4

:ORDER

The order of the second respondent dated 30.5.1996, granting patta in favour of the petitioner based on an exparte decree dated 26.2.1996 in O.S.No.680 of 1995 of the learned Additional District Munsif, Dindigul, was set aside by the first respondent in his proceedings dated 16.12.1996. Aggrieved by which, the petitioner has preferred the above writ petition for issue of a writ of Certiorari to call for the records of the first respondent in Na.Ka.6617 of 1996, dated 16.12.199 6 and quash the same.

2. The learned counsel for the petitioner contends that the first respondent failed to take note of the judgment and decree of the learned Additional District Munsif, Dindigul, dated 26.12.1996 in O.S.No.68 0 of 1995 decreeing the suit in favour of the petitioner herein, and therefore, the

impugned order dated 16.12.1996 passed by the first respondent is illegal and is liable to be set aside.

3. Mr.Jothimani, learned counsel appearing for the third and fourth respondents, contends that the judgment and decree dated 26.12.1996 in O.S.No.680 of 1995 of the learned Additional District Munsif, Dindigul, has already been set aside by an order dated 5.2.1997 in I.A. No.562 of 1996, and also states that the third and fourth respondents have already filed suit in O.S.No.1300 of 1996 on the file of the learned District Munsif, Dindigul for a declaration and consequential injunction, with respect to the properties which are the subject matter in O.S.No.680 of 1995 before the learned Additional District Munsif, Dindigul, and also obtained interim injunction by order dated 13.2.19 97 in I.A.No.844 of 1996.

4. The fact, therefore, remains that as on date the suit O.S.No.680 of 1995 filed by the petitioner and the counter suit O.S.No.1300 of 1 996 filed by the third and fourth respondents are pending before the Civil Court, between the same parties, claiming possession and consequential injunction against each other with respect to the same properties.

5. I have given careful consideration to the submissions of both sides.

6. A Division Bench of this Court in KUPPUSWAMI NAINAR Vs. THE DISTRICT REVENUE OFFICER reported in (1995) 1 MLJ 426 held that, where the Civil Court adjudicated upon the question of title relating to immovable property, the expression of opinion or decision of the Revenue Officers is not conclusive and it is only intended to support their decision for granting patta, and ultimately, it is the Civil Court which has to adjudicate the question as to whether the person claiming patta is the title-holder of the land or not. Even if the revenue authorities decide the question of title, that will not in any way affect the jurisdiction of the Civil Court, which has to decide the question without reference to the decision of the revenue authorities. The Division Bench, thus, held as follows:

" In a petition under Article 226 of the Constitution, the question of title regarding immovable property cannot be gone into because a mass of evidence may be required for adjudicating the question of title. Even if the Court is to interfere with the order under appeal, it is the other party who has to go to a civil court and establish title. As far as the exercise of jurisdiction under Article 226 of the Constitution is concerned, it does not matter to it whether 'A' party goes to civil court or 'B' party. Therefore, the court is of the view that the question of title has to be decided by the civil court without reference to the order under question. Hence, the court declines to interfere with the order challenged in the writ petition."

7. Applying the ratio laid down by the Division Bench of this Court in KUPPUSWAMI NAINAR Vs. THE DISTRICT REVENUE OFFICER, referred supra, which squarely applies to the facts and circumstances of this case, I am obliged to

dispose of the above writ petition on the following terms:

(i) the petitioner and the respondents 3 and 4, shall workout their respective rights as to the title and possession of the properties, in their respective suits, which shall be tried jointly by the learned District Munsif, Dindigul, and the papers relating to O.S.No.680 of 1 995 on the file of the learned Additional District Munsif, Dindigul shall be transferred to the file of the learned District Munsif, Dindigul;

(ii) the learned District Munsif, Dindigul shall decide on the question of possession and entitlement of relief of injunction, as well as the title of either party, based on the materials placed before them, independently, not being prejudiced by either of the proceedings of the revenue authorities, including the or der which is the subject matter in this writ petition; and
(iii) based on the final decree of the Civil Court, the revenue authorities shall make appropriate entries in the revenue records.

In the result, this writ petition is disposed of with the above direction. No costs.

Index :Yes
Internet:Yes

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To:

1. The Revenue Divisional Officer
and Executive Magistrate
Dindigul.

2. The Tahsildar
Dindigul.

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